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**ORIGINAL**

June 14, 2000

**VIA HAND DELIVERY**

Magalie R. Salas, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re:   **Notice of *Ex Parte* Presentation by Jato Communications, Inc.
CC Docket No. 98-141**

Dear Ms. Salas:

Pursuant to Sections 1.1206(b)(1) and (2) of the Commission's Rules, Jato
Communications, Inc. ("Jato") by its attorneys, submits this notice in the above-captioned
docketed proceeding of an oral *ex parte* presentation made and written *ex parte* materials
distributed on June 13, 2000 during meetings with the following:  Rebecca Beynon, Legal
Advisor to Commissioner Furchtgott-Roth; Sarah Whitesell, Legal Advisor to Commissioner
Tristani; Dorothy Attwood, Legal Advisor to Chairman Kennard; Jordan Goldstein, Legal
Advisor to Commissioner Ness; Kyle Dixon, Legal Advisor to Commissioner Powell; and Tony
Dale of the Common Carrier Bureau.  The presentation was made by Pat Green, Vice President,
Carrier Relations of Jato; Steve Blasingame, Vice President, Technology Research and
Architecture; Steven A. Augustino of Kelley Drye & Warren LLP; and Ross A. Buntrock of
Kelley Drye & Warren LLP.  Copies of the written materials distributed at the meeting are
attached hereto.

During the presentation, the parties discussed the need for the Commission to condition
approval of SBC's Request for modification of the SBC Merger Conditions upon SBC being
required to maintain copper loops for at least ten (10) years, offer broadband services consistent
with Section 251(c)(3) of the Act, and provide for collocation at the remote terminal.

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Magalie R. Salas
June 14, 2000
Page Two

Pursuant to Sections 1.1206(b)(1) and (2), an original and two copies of this *ex parte* notification (with attachments) are provided for inclusion in the public record of the above-referenced proceeding. Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

Ross A. Buntrock

cc:   Rebecca Beynon, Legal Advisor to Commissioner Furchtgott-Roth
      Sarah Whitesell, Legal Advisor to Commissioner Tristani
      Dorothy Attwood, Legal Advisor to Chairman Kennard
      Jordan Goldstein, Legal Advisor to Commissioner Ness
      Kyle Dixon, Legal Advisor to Commissioner Powell
      Tony Dale, Common Carrier Bureau
      International Transcription Services

# Jato Communications Corp.

# *Ex Parte* Presentation

*CC Docket No. 98-141*

*SBC's Request for Interpretation, Waiver or Modification of
the SBC/Ameritech Merger Conditions*

June 13, 2000

# About Jato

- Jato is a Denver-based provider of broadband applications, including high-speed Internet access and network connectivity.

- Founded in 1998, Jato provides xDSL services to small and medium sized businesses in 24 Tier 2 and Tier 3 cities, and growing.

- Primarily offers symmetrical DSL (SDSL) service, which can be provided to subscribers up to 30,000 feet from a CO.

- Serving 240 COs, and constructing in over 650 additional CO's covering at least six (6) ILEC regions.

**jato** Communications™

**Public Interest Questions for Project Pronto**

- **Does the Deployment Allow Carriers to Continue to Provide non-ADSL Services?**

- **Will SBC Provide Access to All Features, Functions and Capabilities of the NGDLC Equipment?**

- **Will SBC Implement Project Pronto Consistent with its Collocation Obligations?**

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**Continued Access to
All-Copper Loops is Essential**

- Deployment of Project Pronto Must be an Overlay, not a Replacement of Existing Loops. Unless Competitors can Bypass SBC's NGDLC Architecture, Project Pronto will Restrict the Deployment of Advanced Services.

- Project Pronto Architecture, As Currently Described, Does Not Support SDSL or Other Non-ADSL Services. Jato Needs to Bypass DLCs to Provide Service.

- A Condition Requiring Maintenance of Copper Loops is Necessary because SBC's Statements about its "Plans" are Unenforceable.

# Copper Loops Remain UNEs after Deployment of Project Pronto

- "Dead count" and "Vacant" Copper Loops are within the definition of Unbundled Local Loops.

- SBC Has an Obligation to Provide Loops that are "in place and easily called into service." UNE Remand ¶ 174.

- Presence of DLCs Does Not Relieve SBC of Obligation to Provide Clean Copper Loops.

- Cost of Maintaining Loops in Service is Already Recovered Through Existing Loop Rates.

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## Access All Functionalities
## of the NGDLC Equipment

- For Competition to Flourish, Competitors Must be able to Distinguish Their Services. Access to All Capabilities of ILEC Equipment is Required, Even if SBC Affiliate Will Not Use Them.

- Competitors Should Not be Limited to Unspecified Bit Rate Circuits; Should be able to Provide QoS Dictated by Customer Needs.

- "Broadband UNE" Must Provide Remote Loop Testing, ADSL Fast Path and ADSL Interleave Path.

- FCC Rules Require SBC to Take Collocation into Account when Building RTs. 47 C.F.R. § 51.323(f)(3).

- SBC May Not Limit Collocation Opportunities Pending Further FCC Consideration of RT Issues:
  - Design cabinets to be compatible with collocation
  - 25% rule of thumb

- At a minimum, SBC Should Provide Virtual Collocation of Compatible Cards upon CLEC Request.

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# Conclusion: Proposed Conditions

- Maintain Copper Loops for at least 10 years; Provide to Competitors as Loop UNEs.
- Offer Broadband Service Consistent with Section 251(c)(3):
  - access to all features of equipment
  - support all services capable of being supported by equipment
  - carrier choice of QoS
- Do No Harm on RT Collocation:
  - 25% rule of thumb
  - Virtual where no space for physical
  - Waiver expires in 1 year; SBC must conform to new rules or seek another waiver.